



# Policy Update

10.21.2021

**Congress is running out of time again.** The US Senate and House are back in session to try and reach an agreement on the climate and social spending bill (reconciliation) that would allow the House to vote and pass the Infrastructure Investment and Jobs Act (IIJA) before the current FAST Act extension expires on October 31. Congressional Democrats and the President continue to talk with Senator Manchin and other moderates in Congress to reach agreement on the top-line dollar amount that would be spent in the reconciliation bill. The figure is between \$1.7 trillion and \$2.1 trillion. Democrats in Congress are trying to reach consensus on what programs to cut or shrink as the top-line amount drops. If lawmakers appear unlikely to meet the October deadline, the White House and congressional Democrats are likely to lengthen the timeline again, as they did last month. Congress will also have to extend the surface transportation programs, which will expire at the end of the month.

**US Senate passes legislation allowing American Rescue Plan Act funds to be used on transportation infrastructure.** On October 19<sup>th</sup> the US Senate passed, by unanimous consent, S. 3100 - the State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act. The bill would allow ARPA payments to state and local governments to be used on a broad number of transportation projects:

- INFRA grants under 23 U.S.C. §117
- National Highway Performance Program grants under 23 U.S.C. §119
- The new discretionary Bridge Investment Program grants under 23 U.S.C. §124 (authorized by H.R. 3684)
- Surface Transportation Block Grant Program grants under 23 U.S.C. §133
- Metropolitan Planning grants under 23 U.S.C. §134
- Highway Safety Improvement Program grants under 23 U.S.C. §148
- Congestion Mitigation and Air Quality Program grants under 23 U.S.C. §149
- The new discretionary Charging and Fueling Infrastructure Grants under 23 U.S.C. §151 (authorized by H.R. 3684)
- Territorial and Puerto Rico Highway Program grants under 23 U.S.C. §165
- National Highway Freight Program grants under 23 U.S.C. §167
- The new Rural Surface Transportation grant program under 23 U.S.C. §173 (authorized by H.R. 3684)
- The new Carbon Reduction Program grants under 23 U.S.C. §175 (authorized by H.R. 3684)
- The new PROTECT grant program under 23 U.S.C. §176 (authorized by H.R. 3684)
- Tribal Transportation grants under 23 U.S.C. §202
- Federal Lands Transportation Program grants under 23 U.S.C. §203
- Federal Lands Access Program grants under 23 U.S.C. §204

- RAISE grants
- TIFIA credit assistance under chapter 6 of title 23 U.S.C.
- Appalachian Development Highway System grants under 40 U.S.C. §14501
- Urbanized area formula grants under 49 U.S.C. §5307
- Capital Investment Grants under 49 U.S.C. §5309
- Rural area formula grants under 49 U.S.C. §5311
- State of good repair grants under 49 U.S.C. §5337
- Bus and bus facility grants under 49 U.S.C. §5339
- The new National Culvert Removal, Replacement, and Restoration grants under 49 U.S.C. §6703 (authorized by H.R. 3684)
- HUD Community Development Fund Grants
- Grants under the new formula bridge program created by Division J within H.R. 3684

For INFRA grants, FTA Capital Investment Grants, and RAISE grants, the legislation allows states, counties, and localities to use their ARPA Fiscal Recovery Funds to “satisfy a non-Federal share requirement applicable to such project,” and for TIFIA projects, the Fiscal Recovery Funds could either be used to satisfy the non-Federal share or else to repay the loan itself. S. 3011 also allows Fiscal Recovery Funds to be used to provide, “emergency relief from natural disasters or the negative economic impacts of natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs.” The bill must pass before President Biden can sign the bill into law.

**The Senate Appropriations Committee released the draft text of their fiscal year 2022 Transportation, Housing and Urban Development, and Related Agencies (THUD) appropriations bill.** The draft bill text can be found [here](#), a summary provided by the Committee [here](#), and the explanatory statement [here](#).

The US House of Representative passed its THUD appropriations bill in late July. The current continuing resolution (CR) expires on December 3, 2021. There are some significant differences between the House-passed THUD bill and the Senate proposal. Most importantly, the House THUD bill was written to sync with the funding levels in the House passed INVEST in America Act, the 5-year surface transportation bill. The Senate THUD appropriations bill extends the current amounts under the FY21 FAST Act extension (going back to 2020). Should the bipartisan infrastructure bill be signed into law prior to the expiration of the CR, the final THUD bill would require amendments to provide funding consistent with the Infrastructure Investment and Jobs Act (IIJA).

Below are some of the key appropriation accounts within the **Senate THUD proposal**:

- Total FY22 funding for USDOT: \$91.6 billion in gross budgetary resources – \$3.8 billion above FY21 enacted and \$15.2 billion below the House.
- The Senate bill earmarks \$953.2 million for special projects requested by Senators. This is \$446 million more than the House earmarked. Earmarks can be found on page 196 of the report [here](#).
- Raise grants (TIGER, BUILD): \$1.09 billion - a \$90 million above FY21 and \$110 million below the House. Awarding of grants is based on the selection criteria within the FY17 notice of funding opportunity.

- Building Resilient Infrastructure Through Innovative Solutions: New \$300 million grant program for “capital investments to improve the resilience of coastal transportation infrastructure vulnerable to current and future weather events and natural disasters.”
  - Eligible entities include States, Tribes, territory, transit agency, port authority, MPO, political subdivision of a State or local government, or a collaboration among these entities, or in partnership with a university or university transportation center.
  - Of the total, at least 25% must go toward rural projects, 10% to projects that directly benefit areas of persistent poverty and disadvantaged communities, and \$10 million is set aside for planning grants.
  - USDOT is directed to prioritize the following projects:
    - Coastal infrastructure projects to address long-term risk of sea level rise.
    - Projects located in geographically isolated areas with limited alternatives for the movement of freight and people; and
    - Projects that use innovative solutions to improve resiliency, such as the use of innovative materials, nature-based solutions, and other innovative solutions developed through research conducted at university transportation centers.
  - Eligible projects include Highway or bridge projects; public transportation projects; airport projects; passenger and freight rail transportation projects; port infrastructure investments (including inland port infrastructure and land ports of entry), projects on Tribal lands; and projects that protect infrastructure.
- \$50 million for a New Safe and Accessible Roadways for All grant program “to support local initiatives to prevent death and serious injury for all users on all public roads and streets.” Funds may be used to develop a comprehensive safety action plan; to conduct planning, design, development, and activities for projects and strategies identified in a comprehensive safety action plan; or to carry out infrastructure projects and strategies identified in a comprehensive safety action plan.
  - Eligible entities include States, local or tribal government, territory, political subdivision of a State or local government, MPO on behalf of one or more political subdivisions of a State or territory, including counties, cities, towns, and villages; a unit of local government, including a county or special district; a federally recognized tribe or a consortium of federal -recognized tribes; or a multijurisdictional group of the entities described.
- FAA: \$18.8 billion - \$881 million above FY21 and \$14.5 million below the House.
  - Extra General Funds for AIP: \$603 million - \$203 million above FY21 and \$203 million above the House.
    - \$203 million for earmarks.
- FHWA: \$43.365 billion obligation limitation (FAST Act level). Same as FY21 and \$17.4 billion below the House.
  - Extra General Funds for highway infrastructure programs: \$2.840 billion - \$840 million above FY21 and \$2.2 billion above the House.
    - \$640 million to plus up state highway formula funding; \$1.345 billion bridge formula funding program than last year; \$2.7 million for Puerto Rico Highways; \$650,000 for the Territorial Highway Program; \$100 million for federal lands and Tribes; an additional \$125 million for discretionary bridge grants; \$100 million of ADHS; \$16 million for scenic by-ways; and \$10 million for the Northern Border Regional Commission.

- \$499.6 million for earmarks.
- FTA Formula: \$10.15 billion - (FAST Act level). Same as FY21 and \$2 billion below the House.
  - Extra General Funds for Transit Infrastructure Grants: \$757 million – \$241 million above FY21 and \$177 million above the House. Funding includes:
    - \$300 million for Bus and Bus Facilities grants (\$200 million through formula and \$100 million in competitive grants).
    - \$132 million of the low-no emission bus grants.
    - \$153 million for earmarks.
- FRA Rail: \$3.7 billion - \$893 million above FY21 and \$403 million below the House.
  - Amtrak NEC: \$969 million - \$269 million above FY21 and \$231 million below the House.
  - Amtrak National Network: \$1.7 billion - \$431 million above FY21 and \$231 million above the House.
  - CRISI grants: \$523 million - \$148 million above FY21 and \$23 million above the House.

STBGP – Included in the explanatory statement accompanying the bill was this language – *“Surface Transportation Block Grants [STBG]. —The Committee is aware that while it is the responsibility of the State transportation agencies to distribute STBG funds, some States are not allocating funds fairly across their localities in accordance with the suballocation requirements of current statute. As such, the Committee directs the Secretary to ensure that State transportation agencies are fairly awarding funds to localities based on a proportional share of the region’s transportation aid.”* AMPO will be following this language as Congress moves through the appropriations process.